

Department of Planning and Zoning

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TO: Development Review Board
FROM: Scott Gustin *SG*
DATE: July 1, 2014
RE: 14-1181CU/CA; 8 College Street et al

Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: DW-PT, UR, RCO-RG Ward: 3, 5, 7

Owner/Applicant: City of Burlington & State of Vermont / Dept. of Parks & Recreation

Request: Bike Path rehabilitation, including phase 1 from Perkins Pier to North Beach. Also, improvements to Waterfront Park, including replacement lighting, potable water improvements, boardwalk renovation, and landscaping improvements.

Applicable Regulations:

Article 3 (Applications, Permits, & Project Review), Article 4 (Maps & Districts), Article 5 (Citywide General Regulations), Article 6 (Development Review Standards)

Background Information:

The applicant is seeking approval to rehabilitate and, in some sections, remove and reconstruct the waterfront bike path. Much of the proposed work amounts to repair and maintenance and includes resurfacing and painting. This work is included in the project plans but does not require zoning approval. Work extending beyond repair and maintenance includes the following:

- Widening the path to 11' with 2' aggregate shoulders wherever possible
- Realignment behind the Lake Champlain Transportation parking lot to eliminate the 90 degree turn
- Realignment through Waterfront Park, removal of a path section, and reconstruction of the maintenance/access road
- Realignment through the Urban Reserve and removal of existing impervious surfaces

Note that the sections of path between King and College Streets and also north of the Urban Reserve to North Beach are located within public right-of-way and are not subject to zoning review. Much of the work in these sections is limited to repair and maintenance. Also note that the section of path between Penny Lane and the border with the Urban Reserve has already been reviewed and approved as part of the Moran Plant redevelopment.

In addition to bike path work, the application also includes replacement lighting fixtures, new utility and water bollards, removal and replacement of landscaping, and boardwalk repair in Waterfront Park. Note that the boardwalk repair amounts to removal of the existing pressure

treated boards and replacement with new pressure treated boards. As such, it amounts to repair and maintenance and is not subject to zoning review.

The proposed work traverses multiple properties and multiple zoning districts. It is reviewed collectively as one project.

The Conservation Board will review this project on June 30. Recommendations from that Board will be conveyed to the Development Review Board by way of written communication.

Recommendation: Certificate of Appropriateness and Conditional Use approval as per, and subject to, the following findings and conditions:

I. Findings

Article 3: Applications and Reviews

Part 5, Conditional Use & Major Impact Review:

Conditional use review applies only to the section of work proposed within the Urban Reserve.

(a) Conditional Use Review Standards

(1) The capacity of existing or planned community facilities;

The realigned bike path through the Urban Reserve will have no impact on other existing or planned community facilities. The proposed work will substantially improve a very popular public amenity in dire need of upgrade. **(Affirmative finding)**

(2) The character of the area affected;

The Urban Reserve consists of vacant former industrial land. The lake lies to the west. The bike path presently runs through the middle of the Reserve and will be repositioned to come closer to the lakeshore. No change in use is proposed, and the work will have no long term impact on the character of the area. **(Affirmative finding)**

(3) Traffic on roads and highways in the vicinity;

The proposed realignment of the bike path through the Urban Reserve will have no impact on roadway traffic. **(Affirmative finding)**

(4) Bylaws then in effect;

As conditioned, the project complies with all applicable zoning bylaws. **(Affirmative finding)**

(5) Utilization of renewable energy resources;

(Not applicable)

(6) Cumulative impacts of the proposed use;

(Not applicable)

(7) Functional family;

(Not applicable)

(8) Vehicular access points;

(Not applicable)

(9) *Signs;*
(Not applicable)

(10) *Mitigation measures;*
(Not applicable)

(11) *Time limits for construction;*
The proposed work will be commenced and completed within the standard 2-year time frame for all zoning permits. No zoning permit for lands within the urban reserve can exceed 2 years.
(Affirmative finding)

(12) *Hours of operation and construction;*
Hours of construction are not noted and must be. Construction-related impacts to neighboring properties to the east must be considered in a proposed construction schedule. **(Affirmative finding as conditioned)**

(13) *Future enlargement or alterations;*
Any future enlargement or alterations will require additional permit review in accordance with the regulations in effect at that time. **(Affirmative finding)**

(14) *Performance standards;*
See Sec. 5.5.3 for erosion control.

(15) *Conditions and safeguards;*
As conditioned, the proposed work complies with the applicable requirements of the Comprehensive Development Ordinance. **(Affirmative finding)**

Article 4: Maps & Districts

Sec. 4.4.1, Downtown Mixed Use Districts:

(a) Purpose

(4) Downtown Waterfront – Public Trust District (DW-PT)

Portions of the proposed work are located in the Downtown Waterfront – Public Trust District. This zone is intended to enhance and diversify commercial and residential development in the downtown waterfront area with an emphasis on enhanced community access to the lakeshore. This project will enhance the heavily used bike path along the community's waterfront. The project appropriately relates to the intent of this district. **(Affirmative finding)**

(b) Dimensional Standards & Density

FAR will remain unchanged.

There is no lot coverage limit in the DW-PT zone. Lot coverage on individual parcels will vary.

No setbacks apply to this bike path project.

No building heights will be affected by this work. **(Affirmative finding)**

(c) Permitted & Conditional Uses

No change in use is proposed. The bike path is permitted in these sections of DW-PT.
(Affirmative finding)

(d) District Specific Regulations

1. Use Restrictions

(Not applicable)

2. Public Trust Restrictions

See Sec. 4.4.1 (c) above.

3. Facades and Setbacks on Side and Rear Property Lines

(Not applicable)

4. Building Height Setbacks

(Not applicable)

5. Lake Champlain Waterfront Setbacks

The bike path may encroach into the 50' waterfront setback per criterion C of this section; however, no section of path in the DW-PT zone appears to come within 50' of the lakeshore.

(Affirmative finding)

6. Development Bonuses/Additional Allowances

(Not applicable)

Sec. 4.4.6, Recreation, Conservation, and Open Space Districts:

(a) Purpose

(2) RCO-Recreation/Greenspace (RCO-RG)

Portions of the bike path are located in the RCO-RG zone. This zone is intended primarily to provide a diversity of passive and active recreational opportunities. The proposed bike path work will contribute to future enjoyment of the path. **(Affirmative finding)**

(b) Dimensional Standards & Density

Permissible lot coverage per Zoning Amendment ZA-14-02 adopted 2/18/14 varies on the RCO-RG properties involved in this project. The southernmost parcel, with the city's main wastewater treatment plant, has pre-existing nonconforming lot coverage of 49.6%. The proposed bike path work will not change this existing degree of lot coverage. The abutting Perkins Pier parcel has 66% lot coverage, whereas 70% is permissible. Lot coverage will not change on this parcel either. Further north on Waterfront Park, lot coverage will increase from 18.6% to 19.2%. Lot coverage up to 25% is permissible. **(Affirmative finding)**

(c) Permitted & Conditional Uses

The outdoor recreational use is permitted in the RCO-RG zone and will not change. **(Affirmative finding)**

(d) District Specific Regulations

(Not applicable)

Sec. 4.4.7, Urban Reserve District:

(a) Purpose

A portion of the bike path traverses the Urban Reserve. The Urban Reserve is intended to temporarily preserve a large portion of the city's lakeshore and to reserve the right of future generations to determine the most appropriate combination of development and conservation. There is provision for recreational use and public access to the Reserve. **(Affirmative finding)**

(b) Dimensional Standards & Density

New lot coverage associated with realignment of the bike path through the Urban Reserve will be offset by removal of existing impervious surface. No net gain in lot coverage will result. **(Affirmative finding)**

(c) Permitted & Conditional Uses

No change in use is proposed. Provision is made to allow for public recreational paths through the Reserve. **(Affirmative finding)**

(d) District Specific Regulations

1. Any and all improvements in this district shall be consistent with any and all development and use restrictions and easements as may otherwise be applicable to the property.

No change in use is proposed. The existing bike path will simply be realigned through the Urban Reserve. Continued use as a public bike path appears to be consistent with restrictions and easements affecting the property. **(Affirmative finding)**

2. Any authorization granted by the DRB shall include a prescribed duration for the activity after which such authority and all related permits shall expire. The DRB may consider an extension of this time period if such a request has been made prior to expiration. No permit should remain in effect for more than 2 years without reapplication and review pursuant to this section.

This zoning permit approval is valid for 2 years. If the bike path work continues beyond that time frame, an additional permit will be needed. **(Affirmative finding as conditioned)**

3. As a condition of any approval by the DRB for projects involving temporary construction staging or seasonal snow storage, the site shall be restored to its prior condition once the temporary activity has been completed for which the DRB may require a bond or other necessary surety in a form satisfactory to the city attorney.

(Not applicable)

Article 5: Citywide General Regulations

Sec. 5.2.3, Lot Coverage Requirements

See Article 4 above.

Sec. 5.2.4, Buildable Area Calculation

(Not applicable)

Sec. 5.2.5, Setbacks

See Article 4 above.

Sec. 5.2.6, Building Height Limits

See Article 4 above.

Sec. 5.2.7, Density and Intensity of Development Calculations

See Article 4 above.

Sec. 5.5.1, Nuisance Regulations

Nothing in the proposal appears to constitute a nuisance under this criterion. The use as a public bike path will remain unchanged. **(Affirmative finding)**

Sec. 5.5.2, Outdoor Lighting

Lamps on all of the existing light poles along the boardwalk and other walkways in Waterfront Park will be replaced with new LED lamps. The proposed fixtures are cutoff and mounted at acceptable heights. Illumination levels exceed the applicable limits for walkway lighting. The photometric plans depict a number of locations with lighting levels above 3.0 footcandles and even above 4.0 footcandles. Per criterion 2 of this section, the average illumination level along walkways shall not exceed 0.5 footcandles, and no spot shall exceed 2.0 footcandles. The proposed lighting levels must be reduced accordingly. **(Affirmative finding as conditioned)**

Sec. 5.5.3, Stormwater and Erosion Control

The proposed work requires an erosion prevention and sediment control (EPSC) plan for implementation during construction. A preliminary EPSC plan has been filed; however, final details are pending. The completed EPSC plan will be subject to review and approval by the Conservation Board and the Stormwater Administrator. **(Affirmative finding as conditioned)**

Article 6: Development Review Standards

Part 1, Land Division Design Standards

(Not applicable)

Part 2, Site Plan Design Standards

Sec. 6.2.2, Review Standards

(m) Landscaping and fences

Some of the existing landscaping along the boardwalk will be removed and replaced with new landscaping. Details as to the layout, size, and species of proposed landscaping have not yet been provided and must be.

Except for provision for temporary event fencing, no new fencing is included in this proposal. **(No finding possible)**

(p) Integrate infrastructure into the design

New infrastructure associated with this project is limited to a number of new electrical bollards and water bollards. They are interspersed along Waterfront Park for ease of access. The bollards themselves are fairly small and unobtrusive. **(Affirmative finding)**

Part 3, Architectural Design Standards

Sec. 6.3.2, Review Standards

(Not applicable)

II. Conditions of Approval

Assuming that details for the proposed landscaping along the boardwalk are provided, the following conditions of approval are recommended.

1. **Prior to release of the zoning permit**, the erosion prevention and sediment control plan shall be reviewed and approved by the Conservation Board and the Stormwater Administrator.
2. **Prior to release of the zoning permit**, days and hours of construction shall be specified in a construction schedule, subject to staff review and approval.
3. **Prior to release of the zoning permit**, lighting levels shall be revised in order to comply with the applicable walkway lighting standards of Sec. 5.5.2, subject to staff review and approval.
4. **Prior to issuance of a certificate of occupancy**, the applicant must obtain written certification from the Stormwater Administrator that, among other things, the project EPSC plan as approved has been complied with and final site stabilization has occurred. This certification shall be filed with the Department of Planning & Zoning.
5. Standard conditions 1-15.